



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

February 6, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**ORDINANCE AMENDING LIVING WAGE PROGRAM
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter 2.201.040 Payment of Living Wage, and Chapter 2.201.080 (B)(3) Enforcement and Remedies of the Los Angeles County Code, Living Wage Program, to implement your Board's directive to increase the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in health benefits and \$11.84 per hour without healthcare benefits; and to adopt other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance (LWO).
2. Consistent with the process utilized to implement the original Living Wage rates, include an additional amendment to the LWO, Title 2, Chapter 2.201.040(C), Payment of Living Wage, to provide that adjustments to the living wage rate, including the increase specified in this Ordinance, will be applicable to Proposition A and Cafeteria Services contracts and their amendments which become effective three months or more after the effective date of any ordinance that adjusts the living wage rate.
3. Adopt a policy requiring that any new Living Wage solicitations reflect the new rates, that open solicitations be amended to reflect the new rates, and that the new rates apply to all Living Wage contract renewals, option years and amendments involving scope of work, term or compensation.

4. Delegate authority to department heads to amend and to execute Living Wage contracts which are renewed, for which an option year extension is exercised or which are amended (as described in Recommendation No. 2) to reflect the new rates; further delegate authority to department heads to negotiate additional compensation, if necessary, for contractors to offset the increased contract costs, and accordingly increase the contract maximum amount, limiting the increase, if any, to the increased labor cost.
5. Delegate authority to department heads to execute month-to-month contract extensions on Living Wage contracts that are up for renewal, extension, or amendment in an option year to provide sufficient time for the departments to re-bid such contracts in the event the current vendor is unwilling to adhere to the new Living Wage rates.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On December 5, 2006, your Board directed our Office, the Auditor-Controller, Affirmative Action Compliance Officer and the Director of Internal Services, working in concert with County Counsel, to immediately accomplish various tasks consistent with the findings in a November 16, 2006 memorandum from this Office to your Board. Notable among these recommendations was your Board's mandate to adopt the proposed update to the rate structure to raise the current Living Wage rates consistent with the updated calculation using methodology employed by the Auditor-Controller to develop the original Living Wage rate in 1999. In addition, your Board also directed these offices to prepare two proposed "housekeeping" amendments to the LWO. The first amendment was to the Los Angeles County Code Section 2.201.010 "Findings" to delete the words "less than" as indicted below:

"The board of supervisors finds that the County of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay ~~less than~~ a living wage to their employees causes them to use such services thereby placing an additional burden on the County of Los Angeles."

The second proposed "housekeeping" amendment your Board instructed us to prepare was to amend the debarment provision of the Living Wage Ordinance, Los Angeles County Code Section 2.201.080(B)(3), "Enforcement and Remedies," to make it consistent with recently amended Los Angeles County Code Section 2.202.040, "Debarment of Contractors." We recommend amending Los Angeles County Code Section 2.201.080(B)(3), to read as follows:

"Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, ~~not to exceed three years~~ in accordance with Section 2.202.040 of this Code.

Pursuant to your Board's directive and consistent with the Auditor-Controller's updated calculations, the attached Ordinance amends the Payment of Living Wage provision of the Living Wage Program Ordinance to raise the Living Wage rate from \$8.32 per hour with healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with healthcare benefits and \$11.84 per hour without healthcare benefits.

In concert with the process utilized to implement the original Living Wage rates, we recommend that your Board also adopt an amendment to the LWO to provide that adjustments to the Living Wage rate, including the adjustment specified in this Ordinance, will be applicable to Proposition A and cafeteria service contracts and their amendments which become effective three months or more after the effective date of any ordinance (including this Ordinance) that adjusts the Living Wage rate. This three-month period will provide departments with adequate time to adjust their current solicitations and contracts to include the new rates and provide for a sufficient notification to contractors regarding the new Living Wage rates. It will not prevent departments from including the new rates in new contracts, contract amendments and contracts extensions within the three month period when they are able to negotiate the new rate with the vendor. Your Board enacted a similar three-month delay when the LWO was first enacted in 1999. Title 2, Chapter 2.201.030 – Prospective Effect provides "[t]his chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter."

Consistent with the foregoing, we are recommending that your Board require that any Living Wage solicitations issued after the effective date of the Ordinance reflect the new rates, that open solicitations be amended to reflect the new rates, and that any Living Wage contract submitted for your Board's approval three months or more after the effective date of the Ordinance reflect the new rates.

In addition, we recommend that your Board require that the new rates apply to all Living Wage contract renewals, option years and amendments involving scope of work, term or compensation. Accordingly, we recommend that your Board delegate authority to department heads to amend Living Wage contracts which are renewed, for which an option year extension is exercised or which are amended to reflect the new rates and to negotiate additional compensation, if necessary, for vendors to offset the increased contract costs, and accordingly increase the contract maximum amount, limiting the increase, if any, to the increased labor cost.

In addition to the above, we are also proposing that your Board delegate authority to department heads to execute month-to-month contract extensions on Living Wage contracts that are up for renewal, extension, or amendment in an option year to provide sufficient time for the departments to re-bid such contracts in the event the current contractor is unwilling to adhere to the new living wage rates.

Finally, the recommended actions provide for other miscellaneous, "housekeeping" amendments to other provisions of the LWO, including the two proposed housekeeping amendments set forth above, plus a third housekeeping amendment to Title 2, Section 2.201.020 Definitions to define "Proposition A contract."

Attachment I reflects all of the proposed amendments discussed above.

Other Living Wage Program Objectives

In addition to the above directives, your Board also instructed our Office, working with other applicable departments, to examine other objectives of the Living Wage Program and to report back with our findings. These objectives included preparing a comprehensive plan to develop and implement an automated solution to accurately track and project impacts associated with Living Wage contracts. This Office has convened a workgroup and will respond back to your Board on these items under separate cover.

Implementation of Strategic Plan Goals

Approval of the amended ordinance will further the County's Strategic Plan Goals of Organizational Effectiveness by ensuring that service delivery systems are efficient, effective and goal-oriented.

FISCAL IMPACT/FINANCING

In a memorandum dated June 9, 2004, we reported to your Board that we had surveyed departments regarding their Proposition A and Cafeteria Services contracts which were Living Wage-eligible based on the Proposed Budget for 2004-05. At that time, we also took into account those contracts which were not affected by the Living Wage rate because: 1) they are exempt as allowed by the LWO (e.g., small business, employers subject to a collective bargaining agreement, etc.), or 2) the employees performing services under those contracts are "high wage" earners who are paid wages that are significantly higher than the Living Wage rate so the contracts would not likely be impacted by an increase in the rate.

The results of our survey identified approximately \$186.6 million in Proposition A and Cafeteria Services contracts reflected in the Proposed Budget that year (not including exempt/excluded contracts). Of that amount, approximately \$81.1 million or 43.4 percent of the contract expenditures were related to salaries and health benefits for positions that fall below the level of "high wage" earner.

Taking into account the Consumer Price Index (CPI) and utilizing 2004-05 as the base year for calculating costs for the other fiscal years, we have compiled the Living Wage contract costs chart (Attachment II) that provides our best "guesstimate" on Living Wage contract costs since the inception of the LWO in 1999, as well as the projected cost impact as a result of the increase in the Living Wage rate for 2007-08.

As noted on the attached chart, the results of our effort indicate that implementation of the Living Wage has resulted in approximately \$142.6 million in increased contracting costs over the last seven years. This amount reflects a 12 percent increase in overall Proposition A and Cafeteria Services contract costs. It is important to point out certain caveats which suggest the actual costs related to the Living Wage have been somewhat less, including the following:

- The estimate assumes that contractors would have paid no more than the minimum wage to their employees when in fact several may have paid more; and
- Some of the increases may have been related to other factors.

Attachment II identifies other caveats and assumptions. Further, these increases were likely partially offset by savings in our health services costs as more Living Wage contractors provided health benefits to their employees, or employees purchased health benefits with their increased Living Wage salaries. However, we can identify no sound or reliable manner in which to estimate these offsetting savings.

The increase in the Living Wage rate which your Board has ordered, from \$9.46 to \$11.84 (without health benefits, and from \$8.32 to \$9.64 with health benefits), would result in approximately \$16 million in additional contract costs **were all Proposition A and Cafeteria Services contracts to be renewed at once**. In actuality, these increased costs will be phased in over the next several years as current contracts expire or are extended for additional option years and the new rates implemented. The actual amount will likely be less due to the competitive solicitation process. The projections for 2007-08 were also based upon the assumptions that the number of contracts would be the same as for 2006-07, and that the CPI for 2007-08 would remain unchanged from 2006-07 (note the CPI for 2007-08 is not available at this time).

Please note that the number of Living Wage contracts is provided annually to your Board via the Annual Report issued by the Office of Affirmative Action Compliance. In

addition, the Auditor-Controller developed the formula necessary to calculate the Living Wage contract costs for the other fiscal years.

As noted above, we will report back to your Board under separate cover on the automated solution to track Living Wage contract costs

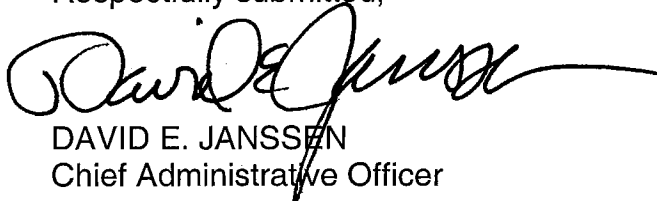
FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This Ordinance amendment has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Ordinance amendment implements your Board's directive to increase the Living Wage rates consistent with the methodology utilized by the Auditor-Controller to establish the original Living Wage rate in 1999.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer

DEJ:MKZ
DS:VLA:pg

Attachments


c: All Department Heads
Administrative Deputies (via electronic mail)
Contract Manager's Network (via electronic mail)

ANALYSIS

This ordinance amends Section 2.201.040 of Title 2 - Administration, of the Los Angeles County Code to increase the living wage rate that employers are required to pay to their employees pursuant to Proposition A and cafeteria services contracts from \$8.32 per hour with \$1.14 per hour in health benefits or \$9.46 per hour without health benefits to \$9.64 per hour with \$2.20 per hour in health benefits or \$11.84 per hour without health benefits. It further amends Section 2.201.040 so that this adjustment to the living wage rate will be applicable to those contracts and contract amendments the terms of which commence three months or more after the effective date of this ordinance, and future adjustments to the living wage rate will similarly be applicable to contracts and contract amendments the terms of which commence three months or more after the effective date of such future adjustments.

This ordinance also makes three "housekeeping" amendments: it corrects an error in the language of Section 2.201.010 of Title 2; amends Section 2.201.080 of Title 2 pertaining to "enforcement and remedies" under the Living Wage Ordinance to make it consistent with Section 2.202.040 of Title 2 pertaining to "Debarment of Contractors"; and amends Title 2, Section 2.201.020 Definitions to define "Proposition A contract."

RAYMOND G. FORTNER, JR.
County Counsel

By 
JULIA WEISSMAN
Deputy County Counsel
Public Works Division

JW:ia

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the Living Wage Ordinance.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.201.010 is hereby amended to read as follows:

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay ~~less than a~~ living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles.

SECTION 2. Section 2.201.020 is hereby amended to read as follows:

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

A. "County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.

B. "Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.

C. "Employer" means:

1. An individual or entity who has a contract with the county:

a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract," or

b. For cafeteria services, referred to in this chapter as a "cafeteria services contract," and

c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or

2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.

D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.

E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et. seq. of this code, entitled Contracting with Private Business.

SECTION 3. Section 2.201.040 is hereby amended to read as follows:

2.201.040 Payment of living wage.

A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be ~~\$8.329.64~~ per hour with health benefits, or ~~\$9.46~~11.84 per hour without health benefits.

B. To qualify for the living wage rate with health benefits, an employer shall pay at least ~~\$1.442.20~~ per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.

C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate.

SECTION 4. Section 2.201.080 is hereby amended to read as follows:

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter:

A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.

B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:

1. Assess liquidated damages as provided in the contract; and/or
2. Recommend to the board of supervisors the termination of the contract; and/or
3. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, ~~not to exceed three years~~ in accordance with Section 2.202.040 of this code.

[2201010JWCC]

Living Wage Contract Costs 2007

Fiscal Year (1)	Estimated Number of Contracts (2)	Estimated Salary and Employee Benefits (Based on the number of Living Wage contracts (3))	CPI for LA Area (Amount Adjusted using 2004 as the Base Year)	Effective Minimum Wage	Living Wage Rate	Living Wage Percentage Increase (4)	Estimated Increase in Contract Cost (5)	Living Wage Contract Total (6)
A	B	C	D	E	F	G	H (8)	I
FY 2000-01	77	\$20,091,643.48	88.8	\$5.75	\$9.46	64.52%	\$7,879,492	\$49,869,887
FY 2001-02	154	\$41,540,830.43	91.8	\$6.25	\$9.46	51.36%	\$14,095,779	\$103,109,361
FY 2002-03	256	\$70,935,466.67	94.3	\$6.75	\$9.46	40.15%	\$20,320,837	\$176,070,400
FY 2003-04	326	\$92,726,684.06	96.8	\$6.75	\$9.46	40.15%	\$26,563,352	\$230,158,835
FY 2004-05	276	\$81,100,000.00	100.0	\$6.75	\$9.46	40.15%	\$23,232,664	\$201,300,000
FY 2005-06	316	\$97,032,036.23	104.5	\$6.75	\$9.46	40.15%	\$27,796,704	\$240,845,239
FY 2006-07	248	\$79,358,113.04	108.9	\$6.75	\$9.46	40.15%	\$22,733,667	\$196,976,426
		\$482,784,773.91		Old Living Wage Rate	New Living Wage Rate	Subtotal for FY 2001-2006	\$142,622,494	\$1,198,330,148
FY 2007-08 (7)	248	\$79,358,113.04	108.9	\$9.46	\$11.84	25.16%	\$15,952,053	\$196,976,426
						Total including FY 2007	\$158,574,547	\$1,395,306,574

(1) As of September 30th of the corresponding Fiscal Year.

(2) Per the Office of Affirmative Action Compliance's Annual Report.

(3) The amount is based on the ratio of the reported number of contracts to the 2004 base year contract total of 276 and applied to the base year 2004 estimated Salary and Employee Benefits total of \$81.1 million. This amount is adjusted for the Consumer Price Index.

(4) The percentage difference is based on the difference between the Living Wage rate of \$9.46 per hour and the Minimum Wage hourly rate.

(5) The amount is calculated based on the following: column C - (col C/(1+col G)).

(6) Base year total of \$201.3 million adjusted by the number of contracts and CPI.

(7) The calculation is based on all existing Prop A contracts paying their staff the revised Living Wage. This estimate assumes all Living Wage contracts would immediately reflect the new Living Wage rates; however, the cost impact would be phased in over several fiscal years.

(8) We cannot determine if all contractors were paying the Minimum Wage to their employers at the inception of the Living Wage Ordinance. This estimate assumes they were paying the Minimum Wage.